

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Mary A. Armado
107 Gaven Street
San Francisco, CA 94134

Case No. 2005-80

OAH No. N2005010106

Registered Nurse License No. 511072

Respondent.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on July 18, 2005.

IT IS SO ORDERED June 17, 2005.

Sandra R. Erickson

President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARY A. ARMADO
107 Gaven Street
San Francisco, CA 94134

Registered Nurse License No. 511072
Public Health Nurse Certificate No. 54001

Respondent.

Case No. 2005-80

OAH No. N2005010106

PROPOSED DECISION

Administrative Law Judge Steven C. Owyang, State of California, Office of Administrative Hearings, heard this matter in Oakland, California on March 24, 2005.

Rebecca M Heinstein, Deputy Attorney General, represented complainant Ruth Ann Terry, M.P.H., R.N., Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, State of California.

Respondent Mary A. Armado was present and represented herself.

The matter was submitted on March 24, 2005.

FACTUAL FINDINGS

1. On May 1, 1995, the Board of Registered Nursing issued Registered Nursing License number 511072 to respondent Mary A. Armado. The license is in full force and effect and will expire on June 30, 2006, unless renewed.

2. On June 29, 1995, the board issued Public Health Nurse Certificate number 54001 to respondent. The certificate is in full force and effect and will expire on June 30, 2006, unless renewed.

3. Effective November 18, 2002, respondent was hired as a Charge Nurse/RN by the St. Francis Convalescent Pavilion (SFCP) in Daly City. SFCP is a skilled nursing facility providing geriatric, rehabilitation, and hospice care. As a Charge Nurse/RN, respondent's

responsibilities included the management and oversight of patient care provided by nursing personnel in her assigned area, planning for patient care and assigning nursing personnel under her supervision, making rounds during her shift to each patient to determine patient needs, carrying out physicians' orders, working with physicians to coordinate patient care needs, and maintaining patient care plans for each patient in her assigned area.

4. Respondent contends that SFCP hired her into a "Trainee" position, not a Charge Nurse/RN position. She asserts that as a Trainee, she was supervised by a Charge Nurse at all times. Respondent maintains that the Charge Nurse was assigned to and responsible for the patients, and that as a Trainee she had no nurse-patient relationship with the patients. Respondent further contends that in the hiring process SFCP misrepresented the job to her, telling her that she would care for no more than 18 patients per shift. While it is possible that SFCP made certain representations about the training and workload respondent would receive, the record established that respondent was hired into the Charge Nurse/RN position. The evidence further established that SFCP does not have a Trainee position.

5. Lani Pulmano, L.V.N., is the Director of Staff Development at SFCP. Pulmano conducted SFCP's orientation and training of respondent, which was completed around December 2, 2002.

6. Respondent found her workload at SFCP too heavy, and felt that SFCP's patient-to-nurse ratio was too high and in violation of state requirements.

7. On December 14, 2002, respondent was scheduled for and accepted a 7:00 a.m. to 3:30 p.m. shift at the SFCP 2 East Nursing Station. The nursing station cared for long term geriatric patients and patients with chronic but stable conditions. SFCP 2 East has 62 beds. Two Charge Nurse/RN's, respondent and Mila Baliwag, were assigned to the nursing station on December 14, 2002. 57 of the 62 beds were occupied, with each Charge Nurse/RN assigned to 28 or 29 patients. Lani Pulmano was the direct shift supervisor for respondent and Baliwag.

Midway through her shift, at about 11:00 a.m., respondent abruptly left her assignment and resigned from her Charge Nurse/RN position. Respondent did not give reasonable notice of her departure to her supervisor Lani Pulmano, and did not take any steps to ensure continuity of care for her patients. Instead, she left SFCP in a rush, telling other SFCP personnel that she was overwhelmed and could not stand it anymore. She had not administered all of the prescribed medications for her assigned patients at the time she left. She did not report which patients had received their medications and which had not. Respondent left the nursing station's medication cart unlocked. Respondent left the facility with the keys to the medication cart. Respondent returned the medication cart keys to SFCP about an hour later. Respondent did not complete her shift, and did not again work for SFCP. SFCP immediately terminated respondent's employment for job abandonment.

8. Respondent showed little remorse about the December 14, 2002, incident. She asserted that SFCP had misled her about her job duties, denied that she was a Charge

Nurse/RN, asserted that as a "Trainee" she was not responsible for the patients, and blamed the working conditions at SFCP for her frustrations and abrupt departure.

9. After leaving SFCP, respondent worked as a nurse trainee at several hospitals. Her most recent employment was at Seton Hospital, Daly City, in 2004. She is currently unemployed.

10. Respondent provided no witnesses, letters or other evidence showing mitigation or rehabilitation.

11. Complainant submitted into evidence court and police records indicating that respondent was the subject of a domestic violence complaint and restraining order in 2003. The matter is still pending in the Superior Court of California, County of San Francisco. The underlying incident involved respondent's live-in boyfriend. Complainant asserts that the incident raises further concerns about respondent's safety, competency, and judgment. Respondent asserts that the allegations of domestic violence are lies.

12. The board seeks recovery of \$7,246.25 in costs for the investigation and prosecution of this case, pursuant to Business and Professions Code section 125.3. That amount was shown to be reasonable.

LEGAL CONCLUSIONS

1. Under Business and Professions Code section 2761, subdivision (a), the board may take disciplinary action against a licensed nurse who has engaged in unprofessional conduct, which includes incompetence or gross negligence in carrying out usual licensed nursing functions. "Incompetence" means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse. (Cal. Code Regs., tit. 16, § 1443.) "Gross negligence" includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. (Cal. Code Regs., tit. 16, § 1442.) Respondent's conduct on December 14, 2002 (Factual Finding 7), constituted incompetence in that she failed to exercise the skill, care and experience ordinarily exercised by a competent registered nurse. Respondent's conduct further constituted gross negligence in that her abandonment of her assignment was an extreme departure from the standard of care ordinarily exercised by a competent registered nurse. Having accepted her assignment and established a nurse-patient relationship, she severed that relationship without giving reasonable notice to her supervisor so that arrangements could be made for continuation of nursing care by others. Her conduct risked harm to her patients' health. Cause exists to take disciplinary action against respondent.

2. Respondent has shown little remorse about her conduct on December 14, 2002. She asserted she was merely a "Trainee" and not responsible for patients. She blamed SFCP and her heavy workload for the incident. While her frustration at her workload is perhaps understandable, it does not excuse her abandonment of her assignment and patients.

Respondent made no showing of mitigation or rehabilitation. Although more than two years have passed since the incident, respondent has not demonstrated that she has learned any lessons from it, and has not shown that she would not again engage in such conduct. The protection of the public requires that respondent's nurse license and public health certificate be revoked.

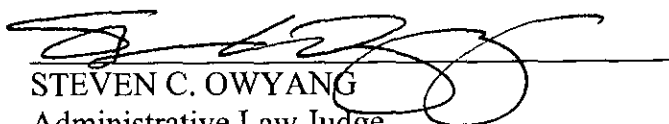
3. Pursuant to Business and Professions Code section 125.3, cause exists to require respondent to pay to complainant its reasonable costs of investigation and prosecution, in the amount of \$7,246.25.

ORDER

Respondent Mary A. Armado's nurse license number 511072 and public health certificate number 54001 are revoked.

If and when respondent's license is reinstated, she shall pay to the board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$7,246.25. Respondent shall be permitted to pay these costs in a payment plan approved by the board. Nothing in this provision shall be construed to prohibit the board from reducing the amount of cost recovery upon reinstatement of the license.

DATED: April 20, 2005


STEVEN C. OWYANG
Administrative Law Judge
Office of Administrative Hearings

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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2005-80

13 **MARY A. ARMADO**
107 Gaven Street
14 San Francisco, CA 94134

A C C U S A T I O N

15 Registered Nurse License No. 511072
16 Public Health Nurse Certificate No. 54001

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
22 ("Board"), Department of Consumer Affairs.

23 2. On or about May 1, 1995, the Board issued Registered Nurse License
24 Number 511072 to Mary A. Armado ("Respondent"). The license was in full force and effect at
25 all times relevant to the charges brought herein and will expire on June 30, 2006, unless renewed.

26 3. On or about June 29, 1995, the Board issued Public Health Nurse
27 Certificate Number 54001 to Respondent. The certificate was in full force and effect at all times
28 relevant to the charges brought herein and will expire on June 30, 2006, unless renewed.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


1. Revoking or suspending Registered Nurse License Number 511072, issued to Mary A. Armado;

2. Revoking or suspending Public Health Nurse Certificate Number 54001, issued to Mary A. Armado;

3. Ordering Mary A. Armado to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

4. Taking such other and further action as deemed necessary and proper.

DATED: 10/26/04


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant